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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/917,300	07/27/2001	Robert C. Knauerhase	10559-507001	9586

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EXAMINER

JACOBS, LASHONDA T

ART UNIT PAPER NUMBER

2157

DATE MAILED: 10/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/917,300

Applicant(s)

KNAUERHASE, ROBERT C.

Examiner

LaShonda T. Jacobs

Art Unit

2157

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 19 August 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,4-13,15-24 and 26-41 is/are pending in the application.
- 4a) Of the above claim(s) 30-36 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,4-13,15-24, 26-29, 37-38 and 41 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Response to Amendment*

This Office Action is in response to Applicants' Election to Restriction Requirement filed on August 19, 2005. Group I has been elected. Claims 1, 4-13, 15-24, 26-29, 37-38 and 41 are presented for further examination.

### *Claim Rejections - 35 USC § 102*

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1, 4-13, 15-24, 26-29, 37-38 and 41 are rejected under 35 U.S.C. 102(e) as being anticipated by Shavit et al (hereinafter, "Shavit", U.S. Pub. No. 2002/0160757).

As per claims 1 and 13, Shavit discloses a machine-implemented method comprising:

- discovering information relating to an accessibility state of one or more communication channels associated with a message recipient, wherein at least one of the communication channels is a cellular phone and the discovering information comprises determining at least one factor chosen from the group of comprising: whether the cellular phone is turned on, whether the cellular phone is currently in use, or geographic location of the cellular phone (paragraphs 0034, 0047-0048, 0054-0055 and 0062); and

- maintaining a data repository comprising the accessibility state information discovered by discovering user preferences relating to user preferences message routing paths (paragraph 0034);
- routing a message to the message recipient based on information in the data repository (paragraphs 0034 and 0036-0039).

As per claim **24**, Shavit discloses a message-routing system comprising:

- one or more discovery processes configured to discover information relating to an accessibility state of one or more communication channels associated with a message recipient, wherein at least one of the communication channels is a cellular phone and said one or more discovery processes determines at least one factor chosen from the group comprising: whether the cellular phone is turned on, whether the cellular phone is currently in use, or geographic location of the cellular phone (paragraphs 0034, 0047-0048, 0054-0055 and 0062);
- a data repository comprising the accessibility state information discovered by discovering user preferences relating to user preferences message routing paths (paragraph 0034); and
- a message routing decision process configured to route a message to the message recipient based on information in the data repository (paragraphs 0034 and 0036-0039).

As per claim **41**, Shavit discloses a machine-implemented method comprising:

- one or more discovery processes configured to discover information relating to an accessibility state of one or more communication channels associated with a message recipient, wherein one or more of the communication channels is a cellular phone and

said one or more discovery processes determine whether a cellular phone is within a cell signal range based on data packet transmissions (paragraphs 0034, 0047-0048, 0054-0055 and 0062);

- a data repository configured to store the accessibility state information discovered by said one or more discovery processes (paragraph 0034); and
- a message routing decision process configured to route a message to the message recipient based on information in the data repository (paragraphs 0034 and 0036-0039).

As per claims 4, 15 and 26, Shavit discloses:

- wherein the maintained data repository further comprises information about the message recipient that facilitates context-appropriate message routing decisions to be made (paragraph 0043).

As per claims 5 and 16, Shavit discloses:

- wherein a context-appropriate message routing decision is based at least in part on a level of obtrusiveness of an associated communications channel (paragraph 0043).

As per claims 6, 7, 17 and 18, Shavit discloses wherein the discovered accessibility state information discovered by said discovering includes:

- information relating to whether the recipient is reachable via a communication channel (paragraphs 0042 and 0047-0051).

As per claims 8, 19 and 27, Shavit discloses wherein the discovered accessibility state information discovered by said discovering includes:

- information relating to whether the recipient is available via a communications channel (paragraphs 0042 and 0047-0051).

As per claims **9**, **20** and **28**, Shavit discloses wherein routing the message comprises:

- choosing one or more communication channels associated with the message recipient such that at least one of the following conditions is met: message is likely to reach the message recipient, the message is likely to reach the message recipient in a timely manner, or the messages is likely to reach the messages recipient at a context-appropriate level of obtrusiveness (paragraphs 0042-0043).

As per claims **10**, **21** and **29**, Shavit discloses wherein discovering information comprises:

- receiving information from a communications service provider relating to at least of the message recipient's communications status or activity (paragraphs 0058 and 0061).

As per claims **11** and **22**, Shavit discloses wherein discovering information comprises:

- receiving information from the message recipient relating to the message recipient's communication status (paragraphs 0058 and 0061).

As per claims **12** and **23**, Shavit further discloses:

- providing the capability for a machine to receive from a message sender a device-independent identifier uniquely identifying the message recipient (paragraph 0036).

As per claim **37**, Shavit a machine-implemented method comprising:

- one or more discovery processes configured to discover information relating to an accessibility state of one or more communication channels associated with a message recipient, wherein one or more of the communication channels is a bridged connection including at least one bridging device and a recipient device, and wherein the discovering information comprises interrogating at least one bridging device regarding

the availability of the recipient device (paragraphs 0034, 0047-0048, 0054-0055 and 0062);

- maintaining a data repository configured to store the discovered accessibility state information discovered by said discovering (paragraph 0034); and
- routing a message to the message recipient through the at least one bridging device to the recipient device based on information in the data repository (paragraph 0034 and 0036-0039).

As per claim 38, Shavit discloses a message-routing system comprising:

- one or more discovery processes configured to discover information relating to an accessibility state of one or more communication channels associated with a message recipient (paragraphs 0034, 0047-0048, 0054-0055 and 0062);
- a data repository comprising the accessibility state information discovered by discovering user preferences relating to user preferences message routing paths, wherein the user preferences include user specified communication channel delivery priorities for more than one user specified time slot (paragraphs 0034 and 0037); and
- a message routing decision process configured to route a message to the message recipient based on information in the data repository and user preferences (paragraphs 0034 and 0036-0039).

### ***Response to Arguments***

7. Applicant's arguments with respect to claims 1, 4-13, 15-24, 26-29, 37-38 and 41 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LaShonda T. Jacobs whose telephone number is 571-272-4004. The examiner can normally be reached on 8:30 A.M.-5:00 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on 571-272-4001. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

LaShonda T Jacobs  
Examiner  
Art Unit 2157

ltj  
September 29, 2005

  
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